

IN THE NUNAVUT COURT OF JUSTICE

BETWEEN:

BERNARD NAULALIK

Plaintiff

- and -

THE ROYAL CANADIAN MOUNTED POLICE, HER MAJESTY THE QUEEN IN RIGHT OF  
CANADA as represented by THE ATTORNEY GENERAL OF CANADA, CONSTABLE KEVIN  
FRECHETTE-MASK, and CONSTABLE RYAN DAWISKIBA

Defendants

**NOTICE TO DEFENDANTS**

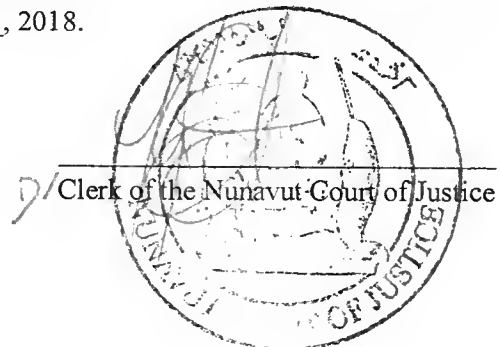
1. You are hereby notified that the Plaintiff may enter judgment against you in accordance with the attached Statement of Claim, or such judgment as may be granted under the *Rules of the Nunavut Court of Justice*, without further notice to you, unless within 25 days after service of the Statement of Claim on you, you cause to be filed in the office of the Clerk of the Nunavut Court of Justice either:

- a. a Statement of defence, or
- b. an Appearance,

and unless within the same time you serve a copy of the Statement of Defence or Appearance on the Plaintiff or the Plaintiff's lawyer.

- 2. The attached Statement of Claim is to be served within 12 months from the day on which it is issued.
- 3. Every Defendant should consult his or her lawyer, or refer to the Rules of the Nunavut Court of Justice, to determine his or her rights.

The attached Statement of Claim is hereby issued out of the office of the Clerk of the Nunavut Court of Justice at Iqaluit, Nunavut, on December 31<sup>st</sup>, 2018.



Court File: 03-17-755 CVC

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Defendants

**STATEMENT OF CLAIM**

1. The Plaintiff, Bernard Naulalik ("Mr. Naulalik"), is a twenty-eight (28) year old individual who at all relevant times was a resident of Iqaluit, Nunavut.
2. The Defendant, The Attorney General of Canada ("The Attorney General"), employs the Royal Canadian Mounted Police ("RCMP") to provide policing, security, intelligence, and investigative services within Canada, including in the City of Iqaluit. The Attorney General is named pursuant to Section 23(1) of the *Crown Liability and Proceedings Act*, R.S.C. 1985, c. C-50.
3. The Defendant, the RCMP, is a police force for Canada, consisting of officers and other members, formed pursuant to the *Royal Canadian Mounted Police Act*, R.S.C. 1985, c. R-10.
4. The Defendant, Constable Kevin Frechette-Mask ("Constable Frechette-Mask"), was at all material times employed as an RCMP officer serving in the City of Iqaluit, Nunavut.
5. The Defendant, Constable Ryan Dawiskiba ("Constable Dawiskiba"), was at all material times employed as an RCMP officer serving in the City of Iqaluit, Nunavut.

#### The events of December 4, 2016

6. As a result of his arrest Mr. Naulalik was transported to the Iqaluit RCMP station on December 4, 2016.
7. Upon arriving at the Iqaluit RCMP station, Mr. Naulalik was escorted by Constable Frechette-Mask and Constable Dawiskiba to the cell block area and into Cell No. 3 (the "Cell").
8. Once in the Cell Constable Frechette-Mask and Constable Dawiskiba pushed Mr. Naulalik to his knees, then face first to the floor, and then removed his handcuffs.
9. Constable Frechette-Mask and Constable Dawiskiba then begin removing Mr. Naulalik's clothing.
10. While Mr. Naulalik's clothing was being removed by the officers he was repeatedly kneed in the head, kicked in the head, struck in the head and body with fists, and pepper sprayed.
11. As a result of the interaction with the officers in the Cell Mr. Naulalik was charged with a single count of resisting or obstructing officers engaged in the execution of their duty.
12. Mr. Naulalik was not charged with any offence related to the initial arrest.
13. For reasons unknown to Mr. Naulalik, the single count of resisting or obstructing officers engaged in the execution of their duty was discontinued prior to trial.

#### Mr. Naulalik's Injuries

14. As a result of the blows administered Mr. Naulalik received injuries to his head, face, back, mouth, teeth, and had bruises all over his body.
15. One of Mr. Naulalik's teeth fell out and two others were chipped as a result on the incident.
16. Mr. Naulalik was not provided medical treatment from the RCMP following the incident and was simply moved to another cell.
17. Mr. Naulalik has had a number of incidents with the Iqaluit RCMP in which he feels he was subjected to excessive force.
18. Mr. Naulalik fears interactions with the Iqaluit RCMP.
19. Mr. Naulalik has suffered emotionally and has had feelings of depression following the incident.

Mr. Naulalik's Claims

20. Mr. Naulalik pleads that he was wrongfully arrested and unlawfully detained by the RCMP and that there was no legal justification for the imprisonment which deprived him of his liberty against his will.
21. Mr. Naulalik pleads that Constable Frechette-Mask and Constable Dawiskiba wrongfully and intentionally committed assault and battery by striking him in the head, face, and body, and by using pepper spray, and are liable for the damages he sustained.
22. In the alternative, Mr. Naulalik pleads that Constable Frechette-Mask and Constable Dawiskiba were negligent in the degree of force they used and used excessive force in the circumstances.
23. Mr. Naulalik also pleads Constable Frechette-Mask, Constable Dawiskiba, the RCMP, and the Attorney General of Canada all breached their respective fiduciary duties to ensure that while Mr. Naulalik was in their care that he would not be the subject of any tortuous or wrongful act by members of the RCMP and as a result each is jointly and severally liable for the damages sustained by Mr. Naulalik.
24. The Attorney General of Canada and RCMP, are vicariously or otherwise liable for the wrongful acts of Constable Frechette-Mask and Constable Dawiskiba, who were at all material times employees of the RCMP.
25. In the further alternative, the Attorney General of Canada and RCMP are liable in negligence for the injuries sustained by Mr. Naulalik in failing to provide proper or adequate instruction and training to its employees regarding use of force or such other negligence as may appear.
26. Mr. Naulalik proposes that this action be tried at the City of Iqaluit, Nunavut.

WHEREFORE THE PLAINTIFF CLAIMS AGAINST THE DEFENDANTS, JOINTLY AND SEVERALLY:

1. General damages in the amount of \$40 000;
2. Loss of income, in an amount to be proven at the trial of this action, for missed work while Mr. Naulalik recovered from his injuries;
3. Punitive damages, in an amount to be proven at the trial of this action;

4. Aggravated damages in an amount to be proven at the trial of this action;
5. Interest on all of the above pursuant to the *Judicature Act*, S.N.W.T., 1998, c.34 s.1 and amendments thereto;
6. Costs; and
7. Such further and other relief as this Honourable Court may deem just.

Dated at the Hamlet of Cambridge Bay, Nunavut, on December 3, 2018, and delivered by **Peter LeCain**, solicitor for the Plaintiff, whose address for service is Kitikmeot Law Centre, 23 Mitik Street, Cambridge Bay, Nunavut, X0B 0C0.



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Peter LeCain  
Counsel for the Plaintiff

TO: Department of Justice, Nunavut Regional Office  
Qimugjuk Building, #969, 2<sup>nd</sup> Floor  
PO Box 2200  
Iqaluit, NU  
X0A 0H0

Royal Canadian Mounted Police National Headquarters  
Headquarters Building  
73 Leikin Drive  
Ottawa, ON  
K1A 0R2

Constable Kevin Frechette-Mask  
Iqaluit RCMP Detachment  
960 Federal Road  
Iqaluit, NU  
X0A 0H0

Constable Ryan Dawiskiba  
Iqaluit RCMP Detachment  
960 Federal Road  
Iqaluit, NU  
X0A 0H0

Court File No. 08-18-755 CVC

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FRECHETTE-MASK, and CONSTABLE  
RYAN DAWISKIBA

Defendants



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**STATEMENT OF CLAIM**

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Peter LeCain  
Barrister and Solicitor  
Kitikmeot Law Centre  
23 Mitik Street  
Cambridge Bay, NU  
X0B 0C0

Telephone: 867-983-2906

Fax: 867-983-2570

Roll No.: 2015026

*This document is being filed in accordance with Practice Directive #18.*